

REMARKS

Claims 27-46 were originally filed in the present application.

Claims 27-46 were rejected in the April 12, 2006 Office Action.

No claims have been allowed.

Claims 27-46 remain in the present application.

Reconsideration of the claims is respectfully requested in light of the following arguments.

In Sections 1 and 2 of the April 12, 2006 Office Action, the Examiner rejects Claims 27-46 under 35 U.S.C. § 101 as claiming the same invention as Claims 1-4, 8-10, 14-16, 20-22 and 26 of United States Patent Number 6,683,908 to Cleveland (hereinafter, "*Cleveland*"). The Applicant respectfully traverses the rejection.

Claim 27 of the present application recites:

27. For use in a CDMA receiver, a noise reduction circuit for improving a signal-to-noise ratio of a received signal comprising a predetermined sequence of chips, each of said chips having a value corresponding to Logic 0 or Logic 1, said noise reduction circuit comprising:

a sampling circuit capable of generating a first sequence of samples from said received signal; and

a controller capable of identifying samples in said first sequence of samples corresponding to Logic 0 chips and identifying samples in said first sequence of samples corresponding to Logic 1 chips, wherein said controller is further capable of generating a second sequence of samples by at least one of:

shifting positions within said first sequence of samples of at least some of said identified samples corresponding to Logic 0 chips, wherein each of said shifted samples corresponding to Logic 0 chips is shifted from a first position corresponding to a Logic 0 chip to a second position corresponding to a Logic 0 chip; and

shifting positions within said first sequence of samples of at least some of said identified samples corresponding to Logic 1 chips, wherein each of said shifted samples corresponding to Logic 1 chips is shifted from a first position corresponding to a Logic 1 chip to a second position corresponding to a Logic 1 chip.

In contrast, Claim 1 of the *Cleveland* patent recites:

1. For use in a CDMA receiver, a noise reduction circuit for improving a signal-to-noise ratio of a received signal comprising a series of chip sequences, said noise reduction circuit comprising:

a sampling circuit capable of generating an original plurality of samples of said received signal; and

a controller capable of determining a first plurality of time slots, each of said first plurality of time slots comprising a plurality of chip samples corresponding to Logic 1, and a second plurality of time slots, each of said second plurality of time slots comprising a plurality of chip samples corresponding to Logic 0, wherein said controller is capable of generating a reconstructed plurality of samples by at least one of:

modifying an order of a first Logic 1 chip sample and a second Logic 1 chip sample; and

modifying an order of a first Logic 0 chip sample and a second Logic 0 chip sample. (*Emphasis added*).

The Office Action acknowledges that the language of the two claims is different, but asserts that the claims cover the same scope.

The Manual of Patent Examining Procedure (MPEP) states that the term “same invention,” in the context of a rejection under 35 U.S.C. § 101, means an invention drawn to “identical subject matter.” *MPEP* § 804(II). The MPEP further prescribes, “[a] reliable test for double patenting under 35 U.S.C. 101 is whether a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent.” *MPEP* § 804(II)(A). The Applicant respectfully submits that, because of the recitation in Claim 1 of the *Cleveland* reference of a controller capable of determining a first and second pluralities of time slots—a limitation that does not appear in Claim 27 of the present application—Claim 27 of the present application is broader than Claim 1 of the *Cleveland* reference. Claim 27 of the present application could be literally infringed without literally

infringing Claim 1 of the *Cleveland* reference. The claims of the present application and the claims of the *Cleveland* reference, therefore, are not drawn to "identical subject matter."

Independent Claims 33, 37 and 41 recite analogous limitations and, for similar reasons, are not drawn to the same inventions as Claims 9, 15 and 21 of the *Cleveland* reference. Claims 28-32, 34-36, 38-40 and 42-46 depend from independent Claims 27, 33, 37 and 41, respectively, and do not claim the same inventions as Claims 2-4, 8, 10, 14, 16, 20, 22 and 24 of the *Cleveland* reference. For these reasons, the Applicant respectfully requests the withdrawal of the rejection of Claims 27-46 under 35 U.S.C. § 101.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckbutrus.com*.

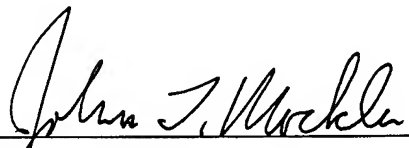
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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